

Conference Summary

May 12, 1999

Conference Summary #106-1

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Chairman
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Education Flexibility Partnership Act H.R. 800

H.Rept. 106-43

Legislative History:

The House passed H.R. 800 by a vote of 330-90 on March 11, 1999; the Senate passed a companion measure (S. 280) by a vote of 98-1 on the same day. On April 21, the House adopted the conference report by a vote of 368-57 and the Senate adopted it by a vote of 98-1. President Clinton signed the bill into law (*P.L. 106-25*) on April 29, 1999.

Summary:

H.R. 800 expands to all 50 states the “Ed-Flex” demonstration program, which was limited to 12 states. The Ed-Flex program, created in 1994 under the Goals 2000: Educate America Act (*P.L. 103-227*), gives states, in exchange for increased accountability for results, the authority to waive certain federal statutory and regulatory requirements. The bill makes the Ed-Flex demonstration a nationwide, stand-alone program, and thus does not amend the Goals 2000 Act. To qualify for Ed-Flex waivers, states must (1) have approved challenging educational content standards and performance measures; and (2) hold local educational agencies (LEAs) accountable for meeting the educational goals submitted in their applications for waivers. In addition, states must waive their own education regulations. The waiver authority will not apply to federal health, safety, or civil rights rules—nor will it apply to the Individuals with Disabilities Education Act (IDEA).

To participate in the Ed-Flex program, states must apply to the Education Secretary, who will determine which states meet the requirements of the program. In their applications, states must describe in detail:

- * how state education agencies will evaluate waiver requests from LEAs;
- * what state education regulations will be waived;

- * specific educational objectives to be achieved; and
- * how progress in meeting educational objectives will be evaluated.

At least 30 days before waiving a federal statute or requirement, states must give public notice in a widely read publication. The notice must contain details about the waiver and provide a contact to whom the public can direct any comments.

Three years after a state is approved for Ed-Flex, the Education Secretary will conduct performance reviews. If a state educational agency fails to make measurable progress in meeting its stated objectives, the secretary may revoke its waiver authority. After five years, each state must reapply for Ed-Flex status. (The 12 states that participated in the Ed-Flex demonstration program will not be affected by the bill until their original waiver authority expires, at which time they must reapply.)

The following programs may be waived under the bill: the Title I compensatory education program, Even Start, Migrant Education, and the Neglected, Delinquent and At-Risk Youth program; the Title II Eisenhower Professional Development program; the Literacy Challenge Fund; the Title IV Safe and Drug-Free Schools and Communities program; Title VI Innovative Education Program Strategies; Title VII Emergency Immigrant Education; and the Perkins Vocational and Applied Technology Education Act.

The bill amends the 1999 Omnibus Appropriations Act (*P.L. 105-277*) to permit LEAs to use class-size reduction funds for professional development activities without forming a consortium (with other LEAs) if they already have class sizes of 18 or fewer children in grades one through three. Finally, the bill stipulates that if a child with a disability *possesses* a weapon on school premises or at a school function, LEAs may discipline the student in the same manner in which non-disabled students are disciplined (e.g., expel the student).

Background:

In response to calls for pervasive reform of the nation's elementary and secondary public schools, Congress initiated the Ed-Flex demonstration program in 1994. The large number of students graduating without the basic requisite skills for suitable employment, the declining competitiveness of American students relative to other industrialized countries, and the widespread dissatisfaction with public schools expressed by parents—these factors led many educators to believe that creating a more flexible regulatory regime would allow local school districts to direct resources where they are most needed and experiment with innovative teaching methods.

Originally available in only 12 states—ranging from large states such as Texas to small states such as Vermont—the flexibility program accords state education officials the authority to waive regulations and statutes related to the more than 50 federal education programs, many of which target specific groups of students. Among these are the so-called Title I [the 1965 Elementary and Secondary Education Act] programs, which fund special assistance to economically disadvantaged students, and programs authorized under the Individuals with Disabilities Act (IDEA). Ed-Flex waivers, however, do not apply to IDEA programs. Other federal education programs target not students but subject

areas: vocational-technical programs, teacher training for math and science, and funding to prevent violence and substance abuse, to name a few.

Attached to each federal program are myriad requirements: states and local school districts must comply with federal guidelines relating to how funds are allocated, what services may be funded, and who may participate. Some programs are more restrictive than others. For example, the Safe and Drug-Free Schools and Communities Program imposes few restrictions on states and local school districts, whereas Title I programs are comparatively restrictive. In addition, school districts are subject to federal worker protection regulations, nutritional standards, as well as federal accessibility and environmental standards.

Local school districts are also subject to state regulation; state governments play a role in how federal dollars are filtered to individual districts. Such requirements often fall outside the purview of federal regulation—the length of the school year and teacher certification, for example.

To qualify for Ed-Flex a state must (1) have a plan for education reform under the Goals 2000 program that has been reviewed and approved by the Department of Education, and (2) be able to modify any of its own requirements. The 12 states that participated in the demonstration program have taken advantage of the program to varying degrees. Seven states have granted 10 or fewer waivers to individual districts; three states, including Kansas and Maryland, granted 20 or more. Two states, Texas and Ohio, have granted a high number of statewide waivers. In Ohio, 180 school districts have implemented a statewide waiver that expands eligibility for Title I school programs.

Among the 12 original states, 90 percent of granted Ed-Flex waivers have been for Title I, the largest—and the most restrictive, because targeted for specific purposes—federal program for elementary and secondary education. Other states, such as Texas, have used Ed-Flex to change the teacher training priorities under the Eisenhower Professional Development Program. In Oregon, community colleges and high schools have worked together to improve technical education programs. Maryland has used its waivers to reduce student-teacher ratios (in math and science classes) by more than half; the ratio is now 12 to one.

Other Information:

“Ed-Flex and Other Forms of Flexibility,” *CRS Report 98-676*; “Ed-Flex States Vary in Implementation of Waiver Process,” *GAO Report/HEHS-99-17*, November 13, 1998; “Federal Education Funds,” *Congressional Quarterly Daily Monitor*, February 22, 1999, p. 3; “Democrats Seek to Tack Teacher-Hiring Plan onto Senate ‘Ed-Flex’ Bill,” *Congressional Quarterly Weekly*, February 27, 1999, p. 484; “Senate Goes to School on Ed-Flex, as House Gets Ready,” *Congressional Quarterly Daily Monitor*, March 4, 1999, p. 4.



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